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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,020	04/28/2005	Jukka Salinen	09602.0001	4497
22852	7590	03/19/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER CRUZ, KATHLEEN ANN	
			ART UNIT	PAPER NUMBER
			1617	
			MAIL DATE	DELIVERY MODE
			03/19/2009 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,020

Applicant(s)

SALLINEN ET AL.

Examiner

KATHRIEN CRUZ

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 8, 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 9-10 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/08)
Paper No(s)/Mail Date 10/01/2004, 04/28/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-15 are pending.

Claims 3-6, 8, 11-12 are withdrawn.

Claims 1, 2, 7, 9-10 and 13-15 are examined herewith.

Applicants response filed January 28, 2009 has been received and entered in the application.

Priority

The application is a 371 of a PCT/F103/00254 (dated 04/03/2003)

Which claims benefits of provisional application 60/369, 323 (dated 04/03/2002).

Action Summary

Applicant's election with traverse of Group A in the reply filed on January 28, 2009 is acknowledged. The traversal is on the ground(s) that unity was improperly broken. This is not found persuasive because clearly Haapalinna demonstrated that alpha-2C-adrenoceptor has been known in the art to treat mental illness, therefore, unity does not exist.

The requirement is still deemed proper and is therefore made FINAL.

Applicant's response on January 28, 2009 filed in response to the Election/Restriction dated October 31, 2008 has been received and duly noted. The

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Examiner acknowledges Applicants' election of Group A with traverse. The Applicant argues that the restriction was not appropriate and not burdensome on the Examiner. The Applicant requested that compound/composition, method of treatment and process claims be examined together (Groups A and B) "since the EPO (in the PCT counter part of this application) is a competent search authority and they were able to search the invention..." The Examiner respectfully directs the Applicant to the portions of the

MPEP that addresses this issue (see MPEP 1893.03 (e) – below. The invention is restricted according to A) Various symptoms (e.g. agitation, cognitive impairment, etc.) (see claims 2-8); B) Disorders or conditions (e.g. schizophrenia, Tourette's syndrome, temporal lobe epilepsy, etc.) (see claims 9-15) due to the fact that they are directed to patentably distinct method of treating distinct disorders.

Respectfully, the Examiner re-asserts that the Election/Restriction was properly restricted.

The examiner may adopt any portion or all of the report on patentability of the IPEA or ISA upon consideration in the national stage so long as it is consistent with U.S. practice. The first Office action on the merits should indicate the report on patentability of the IPEA or ISA has been considered by the examiner. The indication may be a mere acknowledgement.

Thus, the restriction requirement is deemed proper and **FINAL**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 7, 9-10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haapalinna et al (U.S. Patent 5,902, 807) and Pickar et al (U.S. Patent 5,492, 907) and in view of Ludewig (Impaired sensorimotor gating in schizophrenia with deficit and with nondesic syndrome, Swiss Med Weekly, 2002; 132, 159-165).

Haapalinna teaches a method for treating mental illness broadly comprises administering a therapeutically effective amount of an alpha-2-adrenoceptor, wherein said alpha-2-adrenoceptor antagonist is selective for the alpha-2C-adrenoceptor subtype. Haapalinna teaches the treatment of cognitive impairment with alpha-2C-adrenoceptor subtype (claim 1 and 11). Haapalinna teaches alpha-2-adrenoceptor antagonist useful for the treatment of a mental illness said antagonist being selective

for the alpha-2C-adrenoceptor subtype, in combination with a pharmaceutically acceptable excipient, wherein said composition further comprises a therapeutically effective amount of a different compound wherein said different compound, is an anxiolytic, an antidepressive or an antipsychotic compound (claim 8). Haapalinna teaches treating a mammal (claim 10).

Haapalinna does not expressly teach that the treatment is for schizophrenia or sensorimotor gating deficits.

Pickar teaches a method for treating schizophrenia and schizoaffective illnesses comprising the step of administering to a patient in need of such treatment a therapeutically effective amount of an α_2 -adrenergic receptor antagonist and a D₂ dopamine receptor antagonist in a pharmaceutically acceptable carrier (claim 1).

Ludewig teaches that sensorimotor gating deficits are common traits with subjects (e.g. humans) with schizophrenia (page 159, abstract).

It would have been obvious to one of ordinary skilled in the art at the time of the invention was made to employ the teachings of Pickar to that of Haapalinna because Piackar teaches broadly that α_2 -adrenergic receptor antagonist is known to effectively treat schizophrenia and schizoaffective illnesses. Therefore, it would have been obvious to one of ordinary skills in the art to employ species of α_2 -adrenoceptor to treat

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schizophrenia as taught by Haapalinna because Haapalinna teaches broadly that that the species alpha-2C-adrenoceptor is effective in the treatment of mental illness.

It would have been obvious to one of ordinary skilled in the art at the time of the invention was made to employ alpha- 2C antagonists in a method of treating

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schizophrenia as well as sensorimotor gating deficits as taught by Ludewid. One of ordinary skill in the art would have been motivated to do so because it is known in the art to use alpha--adrenoceptor to treat individuals suffering with schizophrenia and taking with the fact that alpha-2C antagonists are also known to treat mental illness broadly. therefore, it would be obvious to one of ordinary skilled in the art to treat individuals with mental illness such as schizophrenia with alpha-2C-adrenoceptor and another antipsychotic compound.

For these reasons, the claimed subject matter is deemed to fail to be patentably distinguishable over the state of the art as represented by the cited reference. The claims are therefore, properly rejected under 35 U.S.C. 103. In light of the forgoing discussion, the Examiner concludes that the subject matter defined by the instant claims would have been obvious within the meaning of 35 USC 103(a).

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention.

Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Conclusion

Claims 1, 2, 7, 9-10 and 13-15 are rejected.

No claims are allowed.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHRIEN CRUZ whose telephone number is (571)270-5238. The examiner can normally be reached on Mon - Thurs 7:00am - 5:00pm with every Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHRIEN CRUZ/
Examiner, Art Unit 1617

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/San-ming Hui/

Primary Examiner, Art Unit 1617